

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 69 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

A N SHARMA

Versus

GUJARAT AGRICULTURAL UNIVERSITY

Appearance:

MR JJ YAJNIK for Petitioner
MR JR NANAVATI for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 01/02/96

ORAL JUDGEMENT

Rule.

Mr. J.R.Nanavati learned counsel for the respondents waives service.

Looking to the controversy involved in this petition as well as with the consent of the parties, the matter is taken up for final hearing today.

Heard the parties.

2. It is not in dispute that the petitioner was given promotion vide order dated 22.6.94 on the post of Professor of Agriculture(Botany) on the recommendation of the Selection Committee appointed under Statute 400 of Gujarat Agricultural University. The promotion given under order dated 22.6.94 was a regular promotion i.e. substantive appointment by promotion on the post of Professor of Agriculture(Botany). Under the order dated 2.1.96 the petitioner was ordered to be reverted from the

post of Professor of Agriculture(Botany) on the ground of administrative confusion. This order is under challenge in this petition at the instance of the petitioner. Though the learned counsel for the petitioner raised several contentions challenging the validity of the order dated 2.1.96, I do not consider it necessary to advert to all those contentions except the one which according to me is sufficient to allow this petition. The learned counsel has argued that the order dated 2.1.96 has been passed without giving notice or opportunity of hearing to the petitioner. This order dated will result in lowering down the status of the petitioner as well as of the reduction of the pay. As this order has civil consequence and will cause serious prejudice to the petitioner the respondents should have, before passing the order, complied with the principles of natural justice. Mr. J.R.Nanavati learned counsel for the respondent -University contended that the petitioner was given promotion by mistake. The order dated 2.1.96 is nothing but only an order to correct the mistake committed. Where the promotion has been given by mistake and in case the petitioner is ordered to be reverted, principles of natural justice need not to be followed. I do not find any substance in the contentions of Mr. J.R.Nanavati learned counsel for the respondent-University. The petitioner may be given promotion by mistake but the fact remains that it was a promotion on regular basis on the recommendation of the Selection Committee. The petitioner's right to hold the post of Professor of Agriculture(Boitany) has been taken away. This reversion will have serious civil consequences viz. firstly, the petitioner's status will be lowered down and secondly the pay of the petitioner will be reduced. In such cases though it may be a case of correction of mistake the petitioner should have been given an opportunity of hearing so that he may be able to satisfy the authorities that it is not a case of any mistake. The matter would have been different in case where the petitioner would not have been given any benefits of the promotion. The order of promotion has been given effect to and the petitioner started working on the post of Professor of Agriculture(Botany). Taking into consideration of these facts and circumstances of this case, I am satisfied that looking to the nature of the order passed in the present case and the consequences that follow from this order, it is obligatory on the part of the respondents to afford a reasonable opportunity of hearing to the petitioner.

2. In the result, the petition succeeds and the order dated 2.1.96 passed by the respondent no.1 is

hereby quashed and set aside. However, it is made clear that the order of this court will not come in the way of the respondents to pass appropriate order in case after giving a notice and opportunity of hearing to the petitioner.

3. Rule is made absolute in the aforesaid terms.

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